

EXHIBIT B

DISTRICT COURT, CITY & COUNTY OF DENVER,
STATE OF COLORADO

Court Address: 1437 Bannock Street
Denver, CO 80202

Plaintiff(s):

DENISE McNEIL and ALENCIA MOORE,

Defendant(s):

LEEDS MORELLI & BROWN, P.C.; LENARD
LEEDS; STEVEN MORELLI; JEFFREY K. BROWN,
JAMES VAGNINI, SUSAN FITZGERALD, RICK
OSTROVE, BRIAN MAZZOLA, NANCY NOWELL,
ERIN GLEASON, LISA CALVACCA, NEXTEL
COMMUNICATIONS, INC. a Delaware corporation,
and JOHN AND JANE DOES, 1-10

▲ COURT USE ONLY ▲

Case Number: 03CV893

Ctrm. 2

Michael T. McConnell, #10600

Traci L. Van Pelt, #26483

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Lenard Leeds, Steven Morelli, Jeffrey Brown, James
Vagnini, and Bryan Mazzola

MOTION FOR DETERMINATION OF QUESTION OF LAW
RE: DISGORGELEMENT

FILED UNDER SEAL

Defendants Leeds, Morelli & Brown, P.C., Lenard Leeds, Steven Morelli, and Jeffrey

Class Action was settled, and 41 class members, including Plaintiffs, filed timely opt outs. On November 5, 2003, Judge Levi entered an Order and Final Judgment adjudicating the Class Action settlement to be fair and reasonable. (Ex. 2, ¶ 13.) Judge Levi also entered a detailed Order denying the lone objector's motion to reject the Class Action settlement. (Ex. 3.) Thus the claims of 546 clients – for disgorgement or otherwise – have been fully and finally resolved by virtue of the settlement of the Class Action. (Ex. 2, ¶ 14, 19; Ex. 2, ¶¶ 27, 32, 46, 52.) In this case, Plaintiffs essentially assert the claims of the settling class members when they seek disgorgement of all of the fees paid to LM&B. Under class action and res judicata principles, Plaintiffs cannot assert the claims of settling class members, and cannot seek any more than their proportionate share of any disgorgement claim.

II. STATEMENT OF UNDISPUTED FACTS

A). THE UNDERLYING NEXTEL MATTER

The Nextel matter first came to LM&B's attention by referral from a former client. The initial claimant was a resident of New Jersey. For the next six months, LM&B investigated Nextel's employment practices in an effort to determine if there was a systemic problem with discrimination. The Firm ultimately concluded there was, and agreed to represent a number of claimants (approximately 80) in New Jersey and New York. At the Firm's 1999 holiday party, two Colorado Nextel employees showed up, unannounced and uninvited. These two claimants – the Plaintiffs herein – Denise McNeil and Alencia Ashton-Moore, flew to New York at their own expense and asked that LM&B represent Colorado employees who were being discriminated